

## **REMARKS**

Reconsideration and withdrawal of the rejections set forth in the Office Action dated August 12, 2005 are respectfully requested. A separate petition for a one-month extension of time accompanies this amendment.

### **I. Amendments**

The specification is amended to include a reference to the microblades being of substantial "identical and uniform configuration", to provide antecedent basis for the claimed subject matter.

Claims 6 and 30 are amended in accord with the Examiner's kind suggestion to clarify that a plurality of microblades has a substantially identical and uniform configuration.

Claim 74 is amended for consistency with claim 30.

### **II. Rejections under 35 U.S.C. § 112, second paragraph**

Claims 6, 7, 55, 57, 59-73, 93-97, 30, 31, 74, 76, 78, 80-91, and 99-104 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. This rejection is traversed in view of the amendments to the claims, discussed above. Specifically, claims 6 and 30 were amended to clarify that a plurality of microblades has a substantially identical and uniform configuration. Claim 74 is amended for consistency with claim 30.

Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

### **III. Rejections under 35 U.S.C. § 102**

Claims 30, 31, 74, 76, 78, 83, 84, 89, 90, 105, and 106 were rejected under 35 U.S.C. §102(b) as being anticipated by Rosenthal, U.S. Patent No. 3,072,122. This rejection is respectfully traversed for the following reasons.

The Examiner is kindly requested to consider the following comment, since it could not have been earlier presented because Rosenthal was first cited in the Final Office action. Moreover, the rejected claims are clearly not anticipated by Rosenthal for

the simple reason that two of the claim features set forth in independent claims 30, 105, and 106 are not taught by the reference.

Specifically, independent claims 30, 105, and 106 each include the features of (i) an anchor for anchoring the claimed device to the body and (ii) an agent delivery or sampling device connected to the sheet from which the plurality of blades extends.

The device described by Rosenthal does not include an anchor for anchoring the device to a body surface, since the device is held by the operator only for a short while and then removed and discarded. (see, Col. 6, lines 1-16, "when the projections 16b have penetrated to the desired depth, the backing member 11 is held in this position for a few moments by the operator until the lymph and other body fluids...dissolve the dried antigenic or biological substances.....The vaccination will then have been completed and the holder 11, with the metal plate 16 still intact thereon, may be removed from the patient's skin and discarded." See, Col. 2, lines 19-35, "He holds the device in this position only for a short time...).

Thus, the device of Rosenthal does not include an anchor to secure the device to a body surface, since it is contemplated that the user would hold the device in place only for a short time.

Moreover, the device of Rosenthal does not have an agent delivery or sampling device connected to the sheet from which the plurality of blades extends. In Rosenthal, the antigenic substance to be delivered is on the projections that penetrate into the skin. No teaching of an agent delivery or sampling device connected to the sheet from which the blades extend is shown or suggested.

Accordingly, since all of the claimed elements are not shown by Rosenthal, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §102.

#### **IV. Rejections under 35 U.S.C. § 103**

Claims 81, 82, 87, 88, 99, and 100-103 were rejected under 35 U.S.C. §103 as being obvious over Rosenthal, U.S. Patent No. 3,072,122. This rejection is respectfully traversed for the following reasons.

Again, the Examiner is kindly requested to consider the following comment, since it could not have been earlier presented because Rosenthal was first cited in the Final Office action.

The rejected claims each depend directly or indirectly on claim 30. As noted in the section above, Rosenthal fails to teach every element of claim 30. Namely, Rosenthal does not show or suggest an anchoring means or a delivery device connected to the sheet from which the blades extend. Nor would it be obvious to modify Rosenthal to include these features, since the device of Rosenthal is clearly intended for a short term use, as evidenced by the instructions that the user holds the device in place "only for a short time" (Col. 2, lines 24-25) and then remove the device.

Accordingly, since all of the claim elements are not shown or suggested by Rosenthal, a prima facie case of obviousness has not been established, and Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103.

**V. Conclusion**

In view of the foregoing, the claims pending in the application comply with the requirements of 35 U.S.C. § 112 and patentably define over the applied art. A Notice of Allowance is, therefore, respectfully requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (650) 838-4402.

Respectfully submitted,

Date: 12/1/05

Michael J. Atkins

Michael J. Atkins  
Registration No. 35,431

Correspondence Address:  
Customer Number: 27777